



July 6, 2000

Mr. Joseph T. Longoria  
Perdue, Brandon, Fielder, Collins & Mott, L.L.P.  
2600 Citadel Plaza Drive, Suite 500  
Houston, Texas 77008

OR2000-2536

Dear Mr. Longoria:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 136407.

The El Paso Central Appraisal District (the "EPCAD"), which you represent, received three requests for information related to litigation in which EPCAD is involved. The first request, dated April 5, 2000, seeks a computer printout of accounts in litigation and "a copy of the bills from outside legal counsel for the period of August, 1999 to the present." You indicate in your April 17, 2000 letter to the requestor that you have released to the requestor the computer printout and redacted copies of the attorney fee bills from Perdue, Brandon, Fielder, Collins & Mott ("Perdue"). You also indicate that you will release to the requestor redacted copies of the bills from other outside counsel. The second request, dated April 14, 2000, seeks "a copy of the most recent document listing the Account Numbers which are in current litigation." This request appears to be similar to the computer printout sought in the first request. As you do not claim an exception to the release of this information, we assume that you have provided this information to the requestor. The third request, dated May 17, 2000, seeks "all legal bills submitted [sic] by Perdue, Brandon, Fielder, Collins & Mott, L.L.P. dated after February 7, 2000." You have released to the requestor redacted copies of Perdue's attorney fee bills. You have submitted for our review a sample of the Perdue fee bills.<sup>1</sup> You claim that information you have redacted is excepted from disclosure under sections 552.103, 552.107(1) and 552.111 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted information.

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<sup>1</sup>In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988); 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

With regard to the submitted sample of attorney fee bills, we note that, except for information that is protected by attorney-client privilege, information contained within an attorney billing statement is expressly made public by section 552.022(a)(16) of the Government Code. Therefore, you may not withhold from disclosure any of the information contained in the attorney fee bills under section 552.103 or 552.111. Nor have you established that the fee bills are expressly confidential under other law. *See* Gov't Code § 552.022(a). Therefore, as for the fee bills, we need only address the applicability of the attorney-client privilege.

Section 552.107(1) excepts from disclosure information that an attorney cannot disclose because of a duty to his client. Under rule 503(b) of the Texas Rules of Evidence, "a client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client." A "confidential communication" is a communication "not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication. Open Records Decision No. 574 (1990). This office has concluded that section 552.107 excepts from public disclosure only "privileged information," that is, information that reflects either "confidential communications" from the client to the attorney or the attorney's legal advice or opinions; it does not apply to all client information held by a governmental body's attorney. *Id.* at 5. When communications from attorney to client do not reveal the client's communications to the attorney, section 552.107 protects them only to the extent that such communications reveal the attorney's legal opinion or advice. *Id.* at 3. Basically factual communications from attorney to client, or between attorneys representing the client, are not protected. *Id.* at 3. In addition, documentation of calls made, meetings attended, or memos sent is generally not protected under this exception. *See* Open Records Decision No. 589 (1991) (even though content of a communication might be confidential, fact of a communication is ordinarily not excepted from disclosure).

A governmental body seeking to withhold requested attorney fee bills under section 552.107(1) must identify the portions that contain client confidences or attorney advice. *Id.* at 1. Unlike documentation such as memoranda, correspondence and briefs in which client confidences or attorney legal advice and opinions are easily identified, attorney fee bill information provides only inexplicit descriptions of services rendered. Rarely is it evident on the face of an attorney fee bill that a particular service rendered is actually a confidential communication. Thus, this office must rely on a governmental body's explanation as to how the particular information requested constitutes either a client confidence or a communication of legal advice or opinion. *Id.* at 1. Here, EPCAD seeks to withhold from disclosure under section 552.107(1) portions of information in its itemized attorney billing statements. The bulk of the information, on its face, does not constitute "confidential communications." Instead, it appears to be basically factual communications from the attorney to the client itemizing the services rendered. EPCAD did not identify the parties to the communications or provide any explanation as to how all of the information it seeks to withhold constitutes either a client confidence or a communication of legal advice or opinion. We have marked the types of information which we believe may be withheld under section 552.107(1). The remaining information must be released to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Carla Gay Dickson  
Assistant Attorney General  
Open Records Division

CGD/ljp

Ref: ID# 136407

Encl. Submitted documents

cc: Mr. Richard L. Bischoff  
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(w/o enclosures)